IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

First Appeal for Order No. 1594 of 2001
(Old No. 911 of 1986)

The State of U.P. through Collector
Tehri Garhwal ....Appellant

Vs

1. Smt. Dabi Davi W/o Chandan Mani Pandey
   R/o Village Lanainu Patti Jitehnidhan
   Tehri Garhwal
2. Hem Pandey R/o Village Lanaina
   Tehri Garhwal
3. Uttar Pradesh State Road Transport Corporation
   Dehradun
4. Mahavir Singh S/o Tej Singh Driver
   Truck No. UTC 9889 P.W.D.
   Pauri Garhwal ...Respondents

Sri R.C. Arya, learned counsel for the appellant
Sri G.B. Pandey, learned counsel for the respondents

Hon'ble B.C. Kandpal, J.

This appeal under Section 110-D of the Motor Vehicles Act has been filed by the State against the Judgment and award dated 13.06.1986 passed by M.A.C.T., Tehri Garhwal in M.A.C.P. No. 12 of 1984.

Brief facts of the case are that on 08.09.1983 the deceased boarded bus bearing registration No. UTF 31705 at Jinjaldhar at 09:00 a.m. was being driven by its driver in a very rash and negligent manner due to which the accident was occurred. Just before the place of accident, there was a steep downward incline and a truck bearing Registration No. UTC 9889 was coming from Rishikesh side. The driver of both the vehicles tried to cross each other with the same speed met a place where there was no space to cross safely. The driver of the ill fated bus took it to extreme edge of the road in a negligent manner due to which it collided with the truck and the bus fell into the river Ganga. The deceased died on the spot immediately after the accident and Rs. 1,000/- were

incurred as his funeral expenses. The deceased possessed good health and he generally used to send Rs. 300/- or Rs. 350/- to the family. The deceased would have remained in service upto the age of 58 years. At the time of the accident, the deceased was aged about 26 years and was working at Delhi as a Machine Operator and was earning Rs. 6000/- per month. The claimants filed the claim petition before the Tribunal concerned for a sum of Rs. 1,30,200/- as compensation.

The Uttar Pradesh State Road Transport Corporation (hereinafter referred to as UPSRTC) contested the claim petition and filed the written statement against the same. The UPSRTC admitted the occurrence of the accident. It has been pleaded by the UPSRTC that according to Yatri Kar Adhiniyam, 1982 only the passenger of a bus is insured and the State of U.P. is liable to pay compensation under this Adhiniyam. A sum of Rs. 15,122.87 has been paid by State of U.P. to the claimants. The driver of the bus blew horn but suddenly the truck owned by the State of U.P. came from opposite direction from the curve ahead and it instead of occupying the major portion of the road leaving a little space for the bus. The driver of the bus slowed down the speed though he was on step incline on the slippery road. The truck hit its right side and as the space was scanty, due to the impact of truck the bus lost balance and rolled down in the khud. Thus, it was the driver of the truck who was negligent in this accident.

The State of U.P. and the driver of the offending truck also filed separate written statement. It has been pleaded that the driver of the truck is in no way responsible for the accident and he was not negligent and rash at the time of the accident. Thus the State of U.P. and the driver are in

no way liable to pay compensation. The State has already paid Rs. 15,122.87, on 03.02.1984 under the Yatrikar Adhiniyam.

On the basis of the pleadings of the parties, following issues were framed by the tribunal concerned:-

1. Whether the accident was occurred due to the rash and negligent driving of the drivers of the tow vehicles involved?
2. To what amount of compensation, are the petitioners/claimants entitled and from which of the respondents and to what extent?
3. To what relief, if any, are the petitioners/claimants entitled?

Both the parties adduced the evidence in support of their cases. Thereafter the tribunal is decreed the claim petition vide judgment and order dated 13.06.1986 for an amount of Rs. 61,000/- in favour of the claimants by the State of U.P. as well as UPSRTC.

Feeling aggrieved by the aforesaid judgment and award the State of U.P. filed this appeal before the Allahabad High Court, which has been transferred to this Court after creation of separate State.

Heard Sri R.C. Arya, learned counsel for the appellant, Sri G.B. Pandey, learned counsel for the respondents and perused the record.

It is worthy to mention here that the amount awarded against the UPSRTC by way of impugned judgment and award has already been paid by the UPSRTC to the

claimants/respondents No. 1 and 2. The tribunal has specifically recorded the finding with regard to the rash and negligent driving of both the vehicles at the time of the accident. The evidence on record also indicate that both the parties were equally responsible for the rash and negligent in their part in causing the accident.

10. There is nothing in the evidence, which indicate that the witnesses produced by the claimants before the tribunal are either telling lie or implicating the offending vehicles involved in the accident falsely.

11. As far as the quantum of compensation is concerned, the tribunal has taken into account the income of the deceased as well as his age and after taking into all relevant consideration, the tribunal has awarded justified amount of Rs. 61,000/- as compensation in favour of the claimants. The amount awarded by the tribunal cannot be said excessive in any manner. I also do find any ground for interference in the impugned judgment and award passed by the tribunal concerned.

12. Thus the appeal lacks merit and is liable to be dismissed.

13. Accordingly, the appeal is dismissed. The impugned judgment and award dated 13.06.1986 passed by M.A.C.T., Tehri Garhwal in M.A.C.P. No. 12 of 1984. is hereby confirmed. No order as to costs.

(B.C. Kandpal, J.)

13.10.2006
ASWAL